

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  FOREIGN ACQUISITIONS	DOCKET NO. RMU-00-10
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**ORDER COMMENCING RULE MAKING**

(Issued November 8, 2000)

Pursuant to the authority of Iowa Code §§ 17A.4, 476.76, and 476.77 (1999), the Utilities Board proposes to adopt the rules attached hereto and incorporated by reference. These rules amend 199 IAC 32.2(4), which deals with public utility acquisitions outside the United States. The reasons for proposing these amendments are set forth in the attached notice of intended action.

**IT IS THEREFORE ORDERED:**

1. A rule making proceeding, identified as Docket No. RMU-00-10, is commenced for purposes of receiving comments upon the proposed rules in the notice attached to this order.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 8<sup>th</sup> day of November, 2000.

## **UTILITIES DIVISION [199]**

### **Notice of Intended Action**

Pursuant to Iowa Code sections 17A.4, 476.76, and 476.77 (1999), the Utilities Board (Board) gives notice that on November 8, 2000, the Board issued an order in Docket No. RMU-00-10, In re: Foreign Acquisitions. Pursuant to a petition for rule making filed on September 28, 2000, by UtiliCorp United Inc. (UtiliCorp), the Board is noticing for comment proposed changes to 199 IAC 32.2(4), which deals with public utility acquisitions outside the United States. UtiliCorp's proposal changes the test for determining whether a foreign acquisition qualifies for an exemption from the reorganization statutes and rules, Iowa Code sections 476.76 and 476.77.

Currently, 199 IAC 32.2(4) provides that Board review of acquisitions outside the United States is not necessary in the public interest if certain conditions are met. First, the public utility does not receive more than 10 percent of its gross utility revenues from Iowa operations. Second, the public utility has not expended more than \$500 million in the current calendar year on foreign acquisitions. Third, the aggregate value of foreign acquisitions does not exceed 30 percent of the net book value of the public utility's assets.

UtiliCorp's proposal eliminates the second and third tests and replaces them with two new tests. First, the exemption would not apply if the public utility does not hold an investment grade credit rating from two major credit rating services. Second, the

exemption would not apply if the acquisition exceeds 15 percent of the net book value of the public utility's assets.

UtiliCorp in its petition for rule making said the proposed rule changes would expedite its bidding process and provide the Board with information that will better allow it to judge the risks associated with a public utility's foreign investment strategy. The proposed amendment requires the public utility to have an investment grade rating from two major credit rating agencies before the exemption applies. Today, there are three major rating agencies. The proposed amendment also requires credit reports from all three agencies to be filed on an annual basis.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before December 19, 2000, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

If requested pursuant to Iowa Code section 17A.4(1)"b," or on its own motion after reviewing the statements, the Board will determine whether an opportunity for oral presentation should be provided.

These amendments are intended to implement Iowa Code sections 476.76 and 476.77.

The following amendments are proposed.

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Item 1. Amend subparagraph **32.2(4)** as follows:

**32.2(4)** Notwithstanding the provisions of subrules 32.2(1) and 32.2(2), board review of acquisitions outside the United States by a public utility is not necessary in the public interest as long as the public utility does not receive more than 10 percent of its gross utility revenues from Iowa operations. The public utility is to notify the board and consumer advocate of any acquisitions which take place pursuant to the exemption within 30 days of the closing of the transaction. The notification shall include the dollar amount of the acquisition, ~~and a description of the acquisition, and~~ a description of the financing. The public utility will file on or before March 1 of each year an annual summary of its foreign acquisitions and recent credit rating reports from all major credit rating services.

~~However, this exemption does not apply once the public utility expends more than \$500 million per calendar year on such acquisitions or if the aggregate value of foreign acquisitions which take place after January 1, 1996, exceeds 30 percent of the net book value of the public utility's assets. If one of these thresholds is met, future acquisitions~~ However, this exemption does not apply if the public utility does not hold an investment grade credit rating from two major credit rating services or if its proposed direct expenditure on the acquisition, including guarantees and financing with recourse to the public utility, exceeds 15 percent of the net book value of the public utility's assets. If the exemption does not apply, the acquisition may not take place without the filing of a proposal for reorganization or request for waiver. In

a rate case proceeding, the board may, upon proper showing, adjust the return on equity to reflect any risk associated with the foreign acquisitions.

November 8, 2000

/s/ Allan T. Thoms

Allan T. Thoms

Chairperson